

Chapter 13.20

WASTEWATER DISCHARGE REGULATIONS

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13.20.010 Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

“Act” means the “Federal Water Pollution Control Act” (PL 92-500) as amended by the “Clean Water Act” (PL 95-217) of 1977.

“Applicable pretreatment standard” means any pretreatment limit or prohibitive standard (Federal, State, or local) contained in this chapter and considered to be the most restrictive with which nondomestic users will be required to comply.

“Approval authority” means the Indiana Department of Environmental Management.

“Approved analytical procedures” means those analytical procedures listed in 40 CFR 136.

“Authorized representative of industrial user” means:

- (1) A principal executive office of at least the level of vice-president, if the industrial user is a corporation.
- (2) A general partner or proprietor, if the industrial user is a partnership or proprietorship, respectively.
- (3) A duly authorized representative of the individual designated above, if the representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

“Best management practices” or “BMP” means the following:

- (1) Schedules of activities.
- (2) Prohibitions of practices.
- (3) Maintenance procedures and other management practices to implement the prohibitions listed in 40 CFR 403.5(a)(1) and 40 CFR 403.5(b).
- (4) Treatment requirements.

(5) Operating procedures.

(6) Practices to control any of the following:

(A) Plant site runoff.

(B) Spillage or leaks.

(C) Sludge or waste disposal.

(D) Drainage from raw materials storage.”

“BOD” means biochemical oxygen demand.

“Bypass” means the intentional diversion of waste streams from any portion of an industrial user’s treatment facility.

“Categorical pretreatment standards” means national pretreatment standards specifying quantities or concentrations of pollutants or the properties of pollutants which may be discharged to the wastewater treatment plant by specific categories of industrial users. The complete listing of the standards are found in 40 CFR Chapter I, Subchapter N, Parts 401 – 471. A listing of categorical industries can be found in The Clean Water Act (Sections 307(b) and (c)). Said preceding listings are hereby incorporated herein and made a part hereof.

“CFR” means Code of Federal Regulations.

“City” means the City of Evansville, Indiana. The City’s Utility Board has the responsibility for promulgation and enforcement of this chapter.

Composite Sample. A “composite sample” should contain a minimum of eight discrete samples of equal volume taken at equal time intervals over the compositing period or proportional to the flow rate over the compositing period.

“Control authority” means the Water and Sewer Utility of the City of Evansville or its duly authorized representative.

“Daily discharge” means discharge of wastewater measured during a 24-hour period that reasonably represents the calendar day for purposes of sampling.

“Discharger” or “industrial discharger” means any nonresidential user who discharges industrial wastewater to the wastewater treatment plant.

“Duly authorized representative,” for purposes of signing reports specific to 40 CFR 403.12 requirements by the Water and Sewer Utility, means a responsible corporate officer, ranking elected official, or an individual or position having responsibility for the overall operation of the facility or the pretreatment program. This authorization of individual or positions must be:

- (1) made in writing by the principal executive officer or ranking elected official; and
- (2) submitted to the approval authority prior to or together with the report being submitted.

If an employee is authorized to submit the reports, a copy of the written authorization designating the employee must be submitted to the IDEM commissioner.”

“EPA” means Environmental Protection Agency.

“Garbage” means any solid wastes from preparation, cooking, or dispensing of food and from handling, storage, or sale of produce.

“Grab sample” means a sample which is taken from a wastestream on a one-time basis with no regard to the flow in the wastestream and without consideration of time.

“Ground (shredded) garbage” means garbage that is shredded to such a degree that all particles will be carried freely in suspension under the conditions normally prevailing in the sewerage system, with no particle being greater than one-half inch in dimension.

“Indirect discharge” means industrial wastewater from a source regulated under Section 307(b) or (c) of the Federal Water Pollution Control Act into the wastewater treatment plants.

“Industrial user (IU)” means any industrial or commercial establishment that discharges industrial (process) wastewater to a publicly owned treatment works.

“Industrial waste” means solid, liquid, or gaseous waste resulting from any industrial, manufacturing, trade, or business process or from the development, recovery, or processing of natural resources.

“Influent” means the water, together with any wastes that may be present, flowing into a drain, sewer, receptacle, or inlet.

“Interference” means the discharge loading which, alone or in conjunction with discharge or discharges from other sources, both inhibits or disrupts the POTW; its treatment processes or operations; or its sludge process, use, or disposal; and therefore, causes a violation of the POTW's National Pollution Discharge Elimination System (NPDES) permit or prevents sewage sludge use or disposal in compliance with specified applicable Federal statutes, regulations, or permits. As promulgated in 40 CFR 403.5(a).

“Major contributing industry” means an industrial user of the publicly owned treatment works that:

- (1) Has a flow of 50,000 gallons or more per average workday;
- (2) Has a flow greater than five percent of flow carried by the municipal system receiving the waste;

(3) Has in its waste a toxic pollutant in toxic amounts as defined in standards issued under Section 307(a) of the Environmental Protection Act;

(4) Is found by the permit issuance authority, in connection with the issuance of the NPDES permit to the publicly owned treatment works receiving the waste, to have significant impact, either singularly or in combination with other contributing industries, on the treatment works or upon the quality of effluent from the treatment works.

“Maximum daily discharge limitations” means highest allowable daily average discharge based on a 24-hour composite sample.

“mg” means milligrams.

“mg/L” means milligrams per liter.

“New source” is defined as any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act, which will be applicable to such source if such standards are thereafter promulgated in accordance with that section. This includes those situations where: (1) construction is at a site where no other point source is located; (2) the process or production equipment causing discharge is totally replaced due to construction; or (3) production or wastewater-generating processes of the facility are substantially independent of an existing source at the same site. Construction is considered to have commenced when: (1) installation or assembly of facilities or equipment has begun; (2) significant site preparation has begun for installation or assembly; or (3) the owner or operator has entered into a binding contractual obligation.

“NPDES” means National Pollutant Discharge Elimination System permit program as administered by the U.S. EPA or the State.

“O&M” means operation and maintenance.

“Operator” means the person responsible for overall operation of a facility.

“Other wastes” means decayed wood, sawdust, shavings, bark, lime, refuse, ashes, garbage, offal, oil, tar, chemicals, and all other substances except sewage and industrial wastes.

“Pass through” means a discharge which exits the POTW in quantities or concentrations which, alone or with discharges from other sources, causes a violation of the POTW’s NPDES permit.

“Person” means any individual, partnership, firm, company, association, limited liability company, society, corporation, institution, group, or government agency.

“POTW” means publicly owned treatment works.

“Pretreatment” means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in the industrial wastewater to comply with this chapter, State or Federal regulations.

“Receiving stream” means the watercourse, stream, or body of water receiving the waters finally discharged from the sewage treatment plant.

“Sewage” means water-carried human wastes or a combination of water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, storm, or other waters as may be present.

“Sewer” means any pipe, conduit, ditch, or other device used to collect and transport sewage or storm water from the generating source.

“SIC” means Standard Industrial Classification.

“Significant industrial user” includes the following:

(1) All categorical industrial users.

(2) Any noncategorical user that:

(a) Discharges 25,000 gallons per day or more process wastewater (“process wastewater” excludes sanitary, noncontact cooling and boiler blowdown waters).

(b) Contributes a process waste stream which makes up five percent or more of the average dry weather hydraulic or organic (BOD, TSS, etc.) capacity of the treatment plant.

(c) Has a reasonable potential, in the opinion of the control or approval authority, to adversely affect the POTW by inhibition, pass-through of pollutants, sludge contamination, or endangerment of POTW workers.

“Significant noncompliance” means any of the terms of noncompliance as defined in 40 CFR 403.8(f)(2)(vii).

“SIU” means significant industrial user.

“Standard methods” means the laboratory procedures set forth in the latest edition, at the time of analysis of “Standard Methods for the Examination of Water and Wastewater” prepared and published jointly by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation.

“TSS” means total suspended solids.

"Upset" means an exceptional incident in which a discharger unintentionally and temporarily is in a state of noncompliance with the standards set forth herein due to factors beyond the reasonable control of the discharger.

"Wastewater" means influent to the wastewater treatment plant.

"Wastewater treatment plant (WWTP)" means the East Side and West Side Wastewater Treatment Plants owned and operated by the City. [Ord. G-2012-12, passed 7-25-12; Ord. G-96-9, passed 7-8-96; Ord. F-84-35, passed 6-25-84. 1982 Code § 53.001; 1983 Code § 5.53.01.]

13.20.020 General discharge prohibitions.

(A) Prohibitions. No discharger shall contribute or cause to be discharged, directly or indirectly, the following substances into the wastewater disposal system or otherwise to the facilities of the control authority:

- (1) Pollutants which create a fire or explosion hazard in the POTW; including, but not limited to, wastestreams with a flashpoint of less than 140 degrees Fahrenheit or 60 degrees centigrade using the test methods specified in 40 CFR 261.21.
- (2) Pollutants which will cause corrosive structural damage to the POTW, and in no case discharges with pH lower than 5.0 or greater than 11.0.
- (3) Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW resulting in interference.
- (4) Any pollutant, including oxygen demanding pollutants (BOD) etc., released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW.
- (5) Any liquid or vapor having temperature higher than 160 degrees Fahrenheit or heat in amounts such that the temperature at the wastewater treatment plant exceeds 40 degrees centigrade (104 degrees Fahrenheit).
- (6) Wastewater containing toxic pollutants in sufficient quantity to exceed the limitation set forth in applicable categorical pretreatment standards.
- (7) Any noxious or malodorous liquids, gases, or solids in quantities sufficient to create a public nuisance or hazard to life or to prevent entry into the sewers for their maintenance and repair.
- (8) Substances which, by reason of their nature and quantity, will cause the wastewater treatment plant to violate its NPDES permit, or interfere with any component of the POTW, including sludge use and disposal.
- (9) Substances with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.

(10) Wastewater containing any toxic radioactive wastes or isotopes of such half-life or concentration as exceed limits established in compliance with applicable State or Federal regulations.

(11) Wastewaters which, by reason of their nature and quantity, will cause a hazard to human life.

(12) Any waters or wastes containing more than 200 milligrams per liter of fats, oils, greases, or waxes.

(13) Bypass is prohibited, and the control authority may take enforcement action against an industrial user for a bypass unless:

(a) It was unavoidable to prevent loss of life, personal injury, or severe property damage.

(b) There was no feasible alternative to bypass.

(c) The industrial user submitted notices as required under Federal, State, or local regulations.

(d) It does not result in any condition which violates the user's permit.

(B) Compliance with Federal and State Regulations.

(1) Federal categorical pretreatment standards promulgated by the U.S. EPA shall be met by all industries subject to such standards, including any future promulgations.

(2) All regulations, limitations and other restrictions set forth by the approval authority shall be adhered to by industries subject to them.

(3) Notification on the discharge of hazardous waste as required by 40 CFR 403.12(p) requires SIUs to notify, in writing, the POTW, the State, and U.S. EPA if any discharge would be considered hazardous waste if disposed of in any other way. The SIU upon notification to this office of a hazardous discharge shall certify that a program is in place to reduce the volume and toxicity of the discharge. This provision does not create a right of discharge not otherwise permitted. [Ord. G-96-9, passed 7-8-96; Ord. F-84-35, passed 6-25-84. 1982 Code § 53.010; 1983 Code § 5.53.010.]

13.20.030 National categorical pretreatment standards.

National categorical pretreatment standards with removal credits granted as promulgated by the U.S. Environmental Protection Agency (EPA) pursuant to the Act shall be met by applicable industrial source of the regulated industrial categories. Categorical pretreatment standards will be modified to grant removal credits by the procedure defined in 40 CFR 403.7. [Ord. F-84-35, passed 6-25-84. 1982 Code § 53.020; 1983 Code § 5.53.020.]

13.20.040 Applicable regulations.

In those cases where more than one set of applicable regulations exist; i.e., Federal, State and local, the most restrictive will apply. [Ord. G-96-9, passed 7-8-96; Ord. F-84-35, passed 6-25-84. 1982 Code § 53.021; 1983 Code § 5.53.021.]

13.20.050 Right of revision.

The City reserves the right to amend this chapter utilizing appropriate Utility Board processing to provide for more or less stringent limitations or requirements on discharges to the wastewater treatment plant where deemed necessary to comply with the objectives. [Ord. F-84-35, passed 6-25-84. 1982 Code § 53.022; 1983 Code § 5.53.022.]

13.20.060 Dilution.

No industrial user shall increase the use of process water, or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with this chapter. [Ord. G-96-9, passed 7-8-96; Ord. F-84-35, passed 6-25-84. 1982 Code § 53.023; 1983 Code § 5.53.023.]

13.20.070 Supplemental limitations.

No industrial users shall discharge wastewater containing concentrations of the following materials, exceeding those values shown below:

Pollutant	Maximum Limits (mg/L)
Cadmium (Cd)	1.3
Hexavalent Chromium (Cr+6)	3.1
Chromium (Cr) total	7.0
Copper (Cu)	4.5
Cyanide (CN-) total	1.9
Lead (Pb)	0.6
Mercury (Hg)	0.05
Nickel (Ni)	4.1
Silver (Ag)	1.0
Zinc (Zn)	4.2
Total Toxic Organics (TTOs)	20
Methylene Chloride	10

The discharge of polychlorinated biphenols (PCBs) is expressly prohibited.

The control authority shall have the ability to control and set limits for other pollutants not specifically listed herein, when, in their opinion, those pollutants have the potential to affect any aspect of water

quality. The control authority may develop Best Management Practices (BMP's), by ordinance or in individual wastewater discharge permits to implement local pretreatment standard and the requirements of this Chapter. [Ord. G-2012-12, passed 7-25-12; Ord. G-96-9, passed 7-8-96; Ord. F-84-35, passed 6-25-84. 1982 Code § 53.024; 1983 Code § 5.53.024.]

13.20.080 Accidental discharges.

Each discharger shall provide protection from accidental discharge of prohibited or regulated materials or substances established by this chapter. Where necessary, facilities to prevent accidental discharge or prohibited materials shall be provided and maintained at the discharger's cost and expense. [Ord. F-84-35, passed 6-25-84. 1982 Code § 53.025; 1983 Code § 5.53.025.]

13.20.090 Fees – Purpose.

It is the purpose of this section and EMC 13.20.100 to provide for the payment of fees from dischargers to the City's wastewater disposal system, to compensate the City for the cost of the pretreatment program established herein. [Ord. F-84-35, passed 6-25-84. 1982 Code § 53.035; 1983 Code § 5.53.035.]

13.20.100 Charges and fees.

(A) The Common Council shall adopt fees and charges which may include the following:

- (1) Fees for monitoring inspections and surveillance procedures.
- (2) Fees for permits.
- (3) Prorated annual fee.
- (4) Fees for filing appeals.
- (5) Fees for reviewing accidental discharge procedures and construction.

(B) Permit fees will be due annually. The permit fee for the period beginning January 1, 1987, shall be \$50.00 per permittee facility. Prorated annual fees will be due monthly with the program cost being prorated based on the total of industrial wastewater contributed by each permitted industry. The percentage of flow contributed by each permitted industry will be based on actual industrial wastewater discharge. The prorated annual fee for the 12-month period beginning July 1, 1990, shall be \$290,000, which shall be apportioned among each permitted industry on a prorated basis. Before July 1, 1991, and each July 1st thereafter, the Common Council shall establish both the permit fee and the prorated annual fee for the next 12-month period. Should the Common Council fail to establish the annual fee for any year, the permit fee and the prorated annual fee for that year shall be the same as the permit fee and the prorated annual fee for the preceding year. [Ord. G-90-16, passed 7-17-90; Ord. F-87-6, passed 6-22-87; Ord. F-84-35, passed 6-25-84. 1982 Code § 53.036; 1983 Code § 5.53.036.]

13.20.110 Wastewater dischargers.

This chapter shall apply to all industrial users of the publicly owned treatment works (POTW) which discharge directly or indirectly into the POTW's sanitary sewer system. It shall be unlawful for industrial wastewater dischargers to discharge sewage, industrial wastes, or other wastes to any sewer within the jurisdiction of the City, or to the wastewater treatment plant, without a permit issued by the City. [Ord. G-96-9, passed 7-8-96; Ord. F-84-35, passed 6-25-84. 1982 Code § 53.045; 1983 Code § 5.53.045.]

13.20.120 General permits.

(A) Permit Requirements. All industrial users must notify the control authority of the nature and characteristics of their wastewater prior to commencing their discharge. The control authority is authorized to prepare a form for this purpose. It shall be unlawful for significant industrial users to discharge wastewater, either directly or indirectly, into the City's sanitary sewer system without first obtaining an industrial user's discharge permit from the control authority. Any violation of the terms and conditions of the permit shall be deemed a violation of this chapter. Obtaining an industrial user's discharge permit does not relieve a permittee of its obligation to obtain other permits required by Federal, State or local law. The control authority may require that other industrial users, including liquid waste haulers, obtain industrial user pretreatment permits as necessary to carry out the purposes of this chapter. These hauled pollutants shall be discharged at a City-designated point. Any industrial user located beyond the City limits shall submit a permit application within 90 days prior to the anticipated commencement of discharging into the sanitary sewer. Upon review and approval of such application, the control authority may enter into a contract with the user which requires the user to subject itself to and abide by this chapter, including all permitting, compliance monitoring, reporting, and enforcement provisions herein. [Ord. G-96-9, passed 7-8-96; Ord. F-84-35, passed 6-25-84. 1982 Code § 53.046; 1983 Code § 5.53.046.]

13.20.130 Permit application.

Industrial dischargers shall complete and file with the City a permit application in the form which the City prescribed on the effective date of the ordinance codified in this chapter. Existing industrial dischargers shall apply for a wastewater discharge permit within 120 days after the effective date of the ordinance codified in this chapter, and proposed new dischargers shall apply at least 120 days prior to connection to the wastewater treatment plant. In order to be considered for a discharge permit, all industrial users required to have a permit must submit the following information on an application form:

(A) Name, address, and location (if that location is different from the address) of the discharger.

(B) Standard Industrial Classification (SIC) code of both the industry as a whole and any processes for which Federal categorical standards have been promulgated.

(C) Expected, or actual if already discharging, wastewater constituents and characteristics including any pollutants in the discharge which are limited by any Federal, State, or local standards. Sampling and analysis will be undertaken in accordance with 40 CFR Part 136. Where the pretreatment standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation

as required by the control authority or the applicable standards to determine compliance with the standard.

(D) Time and duration of the discharges.

(E) Daily maximum, daily average, and monthly average wastewater flow rates, including daily, monthly, and seasonal variations, if any.

(F) Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used at the facility which are or could accidentally or intentionally be discharged to the POTW.

(G) The site plans, floor plans and mechanical and plumbing plans and details to show all sewers, floor drains, and appurtenances by size, location and elevation. A sampling sewer site meeting the requirements of EMC 13.20.260 and representing 100 percent of the industrial user's regulated discharge shall be provided.

(H) Each product produced by type, amount, process or processes and rate of production.

(I) Type and amount of raw materials processed (average and maximum per day).

(J) Number and type of employees, and hours of operation, proposed or actual hours of operation of the pretreatment system.

(K) Whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet all applicable Federal, State, and local standards. If additional pretreatment and/or O&M will be required to meet the standards, then the industrial user shall indicate the shortest time schedule necessary to accomplish installation or adoption of such additional treatment and/or O&M. The completion date in this schedule shall not be longer than the compliance date established for the applicable pretreatment standard. The following conditions apply to this schedule:

(1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, beginning operation, and conducting routine operation). No increment shall exceed nine months, nor shall the total compliance period exceed 18 months.

(2) No later than 14 days following each date in the schedule, the user shall submit a progress report to the control authority including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and if appropriate, the steps being taken by the

user to return to the established schedule. In no event shall more than nine months elapse between such progress reports.

(3) All schedules are subject to review, revision, and approval of the control authority.

(L) Any other information as may be deemed by the control authority to be necessary to evaluate the permit application.

(M) All applications, baseline monitoring reports, permit renewals, reports on periodic compliance and compliance with categorical deadlines must contain the following certification statement and be signed in accordance with subsection (M)(1), (2), (3), (4) or (5) of this section:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for known violations.

(1) By a responsible corporate officer, if the industrial user submitting the reports is a corporation. For the purpose of this subsection, a "responsible corporate officer" means:

(a) A president, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(b) The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000 (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) By a general partner or proprietor if the industrial user submitting the reports is a partnership or sole proprietorship respectively.

(3) The principal executive officer or director having responsibility for the overall operation of the discharging facility if the industrial user submitting the reports is a Federal, State, or local governmental entity, or their agents.

(4) The principal executive officer or director of a limited liability company or any other business entity not listed therein.

(5) By a duly authorized representative of the individual designated in subsection (M)(1), (2), (3) or (4) of this section if:

(a) The authorization is made in writing by the individual described in subsection (M)(1), (2), (3) or (4) of this section;

(b) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, operator of a well, or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; a certification attesting to the SIU's responsibility of the signer shall be submitted as defined by 40 CFR 403.6(a)(2)(ii); and

(c) The written authorization is submitted to the control authority.

(6) If an authorization under subsection (M)(5) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of subsection (M)(5) of this section must be submitted to the control authority prior to or together with any reports to be signed by an authorized representative.

The control authority will evaluate the data furnished by the industrial user and may require additional information. Within 30 days after full evaluation of the data furnished, the control authority may issue an industrial user's discharge permit subject to terms and conditions provided herein. [Ord. G-2012-12, passed 7-25-12; Ord. G-96-9, passed 7-8-96; Ord. F-84-35, passed 6-25-84. 1982 Code § 53.047; 1983 Code § 5.53.047.]

13.20.140 Permit modifications.

The control authority may modify the permit for good cause including, but not limited to, the following:

(A) To incorporate new or revised Federal, State, or local pretreatment standards or requirements. The discharger shall be informed of any proposed changes in their permit at least 90 days prior to the effective date of the change. Any changes or new conditions in the permit shall include an agreed-upon compliance schedule.

(B) Material or substantial alterations or additions to the discharger's operation processes, or discharge volume or character, which were not considered in drafting the effective permit.

(C) A change in any condition in either the industrial user or the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge.

(D) Information indicating that the permitted discharge poses a threat to the control authority's collection and treatment systems, personnel, or the receiving waters.

(E) Violation of any terms or conditions of the permit.

(F) Misrepresentation or failure to disclose fully all relevant facts in the permit application or in any required reporting.

(G) Revision of or a grant of variance from such categorical standards pursuant to 40 CFR 403.13.

(H) To correct typographical or other errors in the permit.

(I) To reflect transfer of the facility ownership and/or operation to a new owner/operator.

(J) Upon request of the permittee, provided such request does not create a violation of any applicable requirements, standards, laws, or rules and regulations.

The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

Where a discharger, subject to a national categorical pretreatment standard, has not previously submitted an application for a wastewater discharge permit as required by EMC 13.20.130, the discharger shall apply for a wastewater discharge permit from the City within 180 days after the promulgation of the applicable national categorical pretreatment standard by the U.S. EPA.

In addition, the discharger with an existing wastewater discharge permit shall submit to the City, within 180 days after the promulgation of an applicable national categorical pretreatment standard, the information required by EMC 13.20.130(K) and (M). [Ord. G-96-9, passed 7-8-96; Ord. F-84-35, passed 6-25-84. 1982 Code § 53.048; 1983 Code § 5.53.048.]

13.20.150 Permit conditions.

Pretreatment permits shall include such conditions as are reasonably deemed necessary by the control authority to prevent pass through or interference, protect the quality of the water body receiving the POTW's effluent, protect worker health and safety, facilitate POTW sludge management and disposal, protect ambient air quality, and protect against damage to the POTW. Permits may contain, but need not be limited to, the following:

(A) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization.

(B) Limits on the average and/or maximum concentration, mass, or other measure of identified wastewater constituents or properties.

(C) Requirements for Best Management Practices (BMPs) or the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works or additional management practices necessary to adequately prevent accidental, unanticipated, or routine discharges.

- (D) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW.
- (E) Requirements for installation and maintenance of inspection and sampling facilities.
- (F) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.
- (G) Compliance schedules.
- (H) Requirements for submission of technical reports or discharge reports or BMP reports.
- (I) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the control authority and affording the control authority, or his representatives, access thereto.
- (J) Requirements for notification of any new introduction of wastewater constituents or of any substantial change in the volume or character of the wastewater being introduced into the POTW.
- (K) Requirements for the notification of any change in the manufacturing and/or pretreatment process used by the permittee.
- (L) Requirements for notification of excessive, accidental, or slug discharges.
- (M) Other conditions as deemed appropriate by the control authority to ensure compliance with this chapter, and State and Federal laws, rules, and regulations.
- (N) A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable Federal pretreatment standards, including those which become effective during the term of the permit. [Ord. G-2012-12, passed 7-25-12; Ord. G-96-9, passed 7-8-96; Ord. F-84-35, passed 6-25-84. 1982 Code § 53.049; 1983 Code § 5.53.049.]

13.20.160 Permit duration.

All wastewater discharge permits shall be issued subject to amendment or revocation if the discharge changes as provided in this chapter. Permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than five years, at the discretion of the control authority, for failure to abide by the provisions of this chapter or for processes or systems where reliability has not been established. [Ord. G-96-9, passed 7-8-96; Ord. F-84-35, passed 6-25-84. 1982 Code § 53.050; 1983 Code § 5.53.050.]

13.20.170 Limitations on permit transfers.

Permits may be reassigned or transferred to a new owner and/or operator with prior approval of the control authority when the following provisions are met:

(A) The permittee must give at least 30 days' advance notice to the control authority describing the anticipated transaction and transfer date.

(B) The notice must include a written certification between the current and the new owner which:

(1) States that the new owner has no immediate intent to change the facility's operations and processes; and

(2) Transfers all responsibilities and obligations of the permit to the new owner. [Ord. G-96-9, passed 7-8-96; Ord. F-84-35, passed 6-25-84. 1982 Code § 53.051; 1983 Code § 5.53.051.]

13.20.180 Permit reissuance.

The user shall apply for permit reissuance by submitting a written request a minimum of 90 days prior to the expiration of the current permit. The request shall contain a briefing memo containing the industry's products or services, raw materials used, whether a batch or continuous operation, and a description of processes generating wastewater. [Ord. G-96-9, passed 7-8-96. 1983 Code § 5.53.052.]

13.20.190 Permit continuation.

An expired permit will continue to be effective and enforceable until the permit is reissued if:

(A) The industrial user has submitted a request for reissuance at least 90 days prior to the expiration date of the user's existing permit; or

(B) The failure to reissue the permit, prior to expiration of the previous permit, is not due to any act or failure to act on the part of the industrial user. [Ord. G-96-9, passed 7-8-96. 1983 Code § 5.53.053.]

13.20.200 Special agreements.

Nothing in this chapter shall be construed as preventing any special agreement or arrangement between the control authority and any user whereby wastewater of unusual strength or character is accepted into the POTW and specially treated and subject to any payments or user charges, as may be applicable. However, no discharge which violates pretreatment standards will be allowed under the terms of such special agreements. If, in the opinion of the control authority, the wastewater may have the potential to cause or result in any of the following circumstances, no such special agreement will be made:

(A) Pass through or interference;

(B) Endanger municipal employees or the public. [Ord. G-96-9, passed 7-8-96. 1983 Code § 5.53.054.]

13.20.210 Administration – Removal credits.

The City shall develop and implement a program for granting removal credits as part of this chapter to reflect the POTW's ability to remove pollutants in accordance with 40 CFR 403.7. [Ord. F-84-35, passed 6-25-84. 1982 Code § 53.060; 1983 Code § 5.53.060.]

13.20.220 Net/gross calculations.

The City shall adjust categorical pretreatment standards to reflect the presence of pollutants in the discharger's intake water, in accordance with 40 CFR 403.15. [Ord. F-84-35, passed 6-25-84. 1982 Code § 53.061; 1983 Code § 5.53.061.]

13.20.230 Records retention.

Any industrial user subject to reporting requirements under the pretreatment program shall maintain records of all information associated with Best Management Practices established under this Chapter or resulting from any monitoring activities thus required. Such records shall include for all samples:

- (A) The date, exact place, method, and time of sampling and the names of the person or persons taking the samples;
- (B) The dates analyses were performed;
- (C) The person or persons performing the analyses;
- (D) The analytical techniques/methods used;
- (E) The results of such analyses.

All pretreatment records shall be retained for a minimum period of three years. At the request of the control authority this time period shall be extended. All records which pertain to matters which are the subject of administrative adjustment or any other enforcement or litigation activities brought by the City pursuant thereto shall be retained and preserved by the discharger until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired. These records also shall be made available for inspection and copying by the control authority at reasonable times. [Ord. G-2012-12, passed 7-25-12; Ord. G-96-9, passed 7-8-96; Ord. F-84-35, passed 6-25-84. 1982 Code § 53.062; 1983 Code § 5.53.062.]

13.20.240 Permit termination.

Wastewater discharge permits may be terminated for the following reasons:

- (A) Knowingly making any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter;
- (B) Tampering with monitoring equipment;
- (C) Refusing to allow timely access to the facility premises and records;
- (D) Failure to meet any conditions of the permit;
- (E) Failure to pay fines;
- (F) Failure to pay sewer charges;

(G) Failure to meet compliance schedules;

(H) Failure to correct continued noncompliance;

(I) Failure of the user to report significant changes in operations or wastewater discharges. [Ord. G-96-9, passed 7-8-96; Ord. F-84-35, passed 6-25-84. 1982 Code § 53.063; 1983 Code § 5.53.063.]

13.20.250 Reporting requirements – Compliance date report.

(A) Within 180 days following the date for final compliance by the discharger with applicable pretreatment standards with removal credits granted as set forth in this chapter, or 180 days following commencement of the introduction of wastewater into the wastewater treatment plant by a new discharger, any discharger subject to this chapter shall submit to the City a report indicating the nature and concentration of regulated substances contained in its discharge, and the average and maximum daily discharge.

(B) The report shall state whether the applicable pretreatment standards with removal credits granted are being met on a consistent basis and, if not, what additional O&M or pretreatment is necessary to bring the discharger into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the discharger and by an Indiana-licensed wastewater treatment plant operator. [Ord. F-84-35, passed 6-25-84. 1982 Code § 53.070; 1983 Code § 5.53.070.]

13.20.260 Periodic self-monitoring report for compliance.

In order to comply with this chapter, any industrial user may be required to perform the necessary sampling and analysis of its wastewater discharge. This self-monitoring requires that the following steps be taken:

(A) Provide, at the user's own expense, a monitoring facility to allow for sampling and inspection. This facility shall be a manhole or other structure with an opening no less than 24 inches in diameter and an internal diameter of no less than 36 inches. Each monitoring facility shall be situated on the discharger's premises, except where such location would be impractical or cause undue hardship on the discharger. The City may then concur with the facility being constructed in the public street or sidewalk area, providing that the facility is located so that it will not be obstructed by landscaping or parked vehicles or present a safety hazard.

(B) Using the above facility, the user shall take samples at such frequencies and of the type required by the user's wastewater discharge permit. This testing frequency shall be determined by applicable Federal and State guidelines. Further, these samples shall be tested for those pollutants specified by the permit. These analyses shall be performed using analytical methods and procedures set forth in the Code of Federal Regulations, Section 136.

The control authority shall also conduct inspections, sampling and analysis at any industrial user's facilities as deemed necessary to determine if pretreatment standards are being met. In order to perform these tasks, any industrial user shall allow the control authority to enter upon all areas of the premises for

these purposes and/or to review or copy records which are kept by the user. [Ord. G-96-9, passed 7-8-96; Ord. F-84-35, passed 6-25-84. 1982 Code § 53.071; 1983 Code § 5.53.071.]

13.20.270 Industrial filing system.

(A) In order to ensure that the City is aware of the status of industrial users discharging to the POTW, a filing system will be developed.

(B) This filing system will include, as required by Federal and State guidelines, all of the permitted industrial users and will be used for maintaining correspondence, baseline reports, semiannual self-monitoring reports, and information developed by industrial waste personnel in visiting and sampling the industries.

(C) Industrial users may inspect their file at any time. [Ord. F-84-35, passed 6-25-84. 1982 Code § 53.072; 1983 Code § 5.53.072.]

13.20.280 Inspection and sampling.

(A) The inspection and sampling of the individual industries will entail the following:

- (1) Randomly select an industry for investigation.
- (2) Visit the plant site to verify the correctness of existing information.
- (3) Locate the sampling manhole.
- (4) Set up an automatic sampler or samplers along with flow-measuring devices, if necessary.
- (5) Label samples and transport to laboratory for analysis.
- (6) If requested by the industrial user, the control authority shall provide the following:
 - (a) "Split samples" with the discharger of any samples collected.
 - (b) A list of all analyses to be completed.
 - (c) A written report of analytical results within 15 days of the sample collection if possible.

(B) All permitted industries are to be randomly sampled and inspected. Sampling and inspection will usually be conducted once annually, however this frequency may be increased at the discretion of the control authority.

(C) Self-monitoring by all industries shall be determined by the control authority using applicable State and/or Federal guidelines. [Ord. G-96-9, passed 7-8-96; Ord. F-84-35, passed 6-25-84. 1982 Code § 53.073; 1983 Code § 5.53.073.]

13.20.290 Confidential information.

Information and data furnished to the control authority shall be available to the public without restriction unless the user specifically requests confidentiality. The request must be based upon the user's ability to demonstrate, to the satisfaction of the control authority, that the release of such information would divulge processes or methods of production; or composition or other nature of products entitled to protection as trade secrets or proprietary information. Any effluent data can never be considered confidential and must be available to the public per 40 CFR 403.14(b). The U.S. EPA and other governmental agencies have the right to immediate and unlimited access to all information collected by the City under its pretreatment program as promulgated in Section 308 of the Clean Water Act (CWA), regardless of the user's request for confidentiality. [Ord. G-96-9, passed 7-8-96; Ord. F-84-35, passed 6-25-84. 1982 Code § 53.076; 1983 Code § 5.53.076.]

13.20.300 Notice of bypass.

If an industrial user knows in advance of a need for a bypass, it shall submit prior notice to the control authority, if possible at least 10 days before the date of the bypass.

An industrial user shall submit verbal notification of an unanticipated bypass, that exceeds applicable pretreatment standards, to the control authority within 24 hours from the time the industrial user becomes aware of the bypass. A written report shall also be provided within five days of the time the industrial user becomes aware of the bypass. The written report shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The control authority may waive the written notice dependent upon conditions at the time of the verbal report. [Ord. G-96-9, passed 7-8-96. 1983 Code § 5.53.081.]

13.20.310 Notification of changed discharge.

All industrial users shall promptly notify the control authority in advance of any substantial change or modification in plant processes or volume or character of its wastewater discharge including the discharge of hazardous wastes. [Ord. G-96-9, passed 7-8-96. 1983 Code § 5.53.082.]

13.20.320 Periodic reports on continued compliance.

Any industrial user subject to a categorical pretreatment standard, after the compliance date of such standard, or in the case of a new source, after commencement of discharge into the POTW, shall at least twice a year submit to the control authority a report indicating the concentration and nature of pollutants in the effluents which are limited by such standards. The information required in this report is specified by the applicable permit. In cases where the pretreatment standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the control authority or applicable permit necessary to determine the compliance status of the user. Any analyses of the user's wastewater which is in excess of the permit requirements must also be included in this report. Noncategorical users to whom permits have been issued are also required to submit this report with information as specified by such permits. These reports must include the certification statement and be signed by a responsible officer or authorized representative. [Ord. G-2012-12, passed 7-25-12; Ord. G-96-9, passed 7-8-96. 1983 Code § 5.53.083.]

13.20.330 Notice of potential problems including slug loading.

All categorical and noncategorical industrial users shall notify the POTW immediately of discharges that could cause problems to the POTW, including, but not limited to, any slug loading as defined by 40 CFR 403.5(b). When such notice is given verbally, a written follow-up report is required within five days. This written follow-up requirement may be waived at the discretion of the control authority.

The control authority may also require those industries with the possibility to adversely affect POTW operations to develop a plan which addresses the minimization of that potential. [Ord. G-96-9, passed 7-8-96. 1983 Code § 5.53.084.]

13.20.340 Compliance schedule reports for noncategorical industries.

(A) Any noncategorical industry which is not in compliance with the City's ordinance limitations must develop a compliance schedule during which time the industry must meet the City's standards. The schedule should contain increments of progress (hiring engineers, starting construction, and the like) which correspond to specific dates for their completion. These represent major events leading to the operation of pretreatment equipment to meet the City's pretreatment standards.

(B) All industrial users subject to these conditions must submit a progress report to the City no later than 14 days following each date in the compliance schedule. This report must include whether it complied with the increment of progress to be met on that date, the reasons for delay if the date was not met, and the steps being taken to return to compliance. In no event can more than nine months elapse between progress reports. [Ord. F-84-35, passed 6-25-84. 1982 Code § 53.085; 1983 Code § 5.53.085.]

13.20.350 Baseline reports.

Within 180 days of the effective date of a categorical pretreatment standard, or 180 days after the final administrative decision made upon a category, whichever is later, existing industrial users subject to such standards, and currently discharging or scheduled to discharge to the POTW, are required to submit to the control authority a baseline monitoring report which contains the information contained in paragraphs (b)(1) through (7) of 40 CFR 403.12.

New sources and existing sources, both categorical and noncategorical, that become significant industrial users subsequent to promulgation of an applicable categorical standard shall be required to submit to the control authority a report which contains the information listed in paragraphs (b)(1) through (5) of 40 CFR 403.12. This report must be submitted at least 90 days before the industrial user begins discharging to the POTW. New sources must include in this report any pretreatment methods to be used as well as production data, discharge flows, and quantities of regulated pollutants.

Where the pretreatment standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the control authority or applicable permit necessary to determine the compliance status of the user. [Ord. G-2012-12, passed 7-25-12; Ord. G-96-9, passed 7-8-96; Ord. F-84-35, passed 6-25-84. 1982 Code § 53.086; 1983 Code § 5.53.086.]

13.20.360 Compliance schedule reports for categorical industries.

(A) Whenever an industrial user subject to categorical pretreatment standards is not meeting the standards at the time of promulgation of that standard, a compliance schedule report shall be filed within 180 days after final promulgation with the pretreatment program administrator. The schedule shall contain increments of progress (such as hiring an engineer, completing plans, commencing construction, completing construction, and the like), which correspond to specific dates for their completion.

(B) All industrial users subject to these conditions must submit a progress report to the City no later than 14 days following each date in the compliance schedule including the final date for compliance. This report must include, at a minimum, whether or not it complied with the increment of progress to be met on that date and, if not, the date on which it expects to comply, the reasons for delay, and the steps being taken by the industrial user to return the construction to the schedule established. In no event can more than nine months elapse between the progress reports. [Ord. F-84-35, passed 6-25-84. 1982 Code § 53.087; 1983 Code § 5.53.087.]

13.20.370 Compliance date report.

Within 90 days following the date for final compliance with applicable categorical standards, or in case of a new source following commencement of the introduction of wastewater into the POTW, any industrial user subject to the pretreatment standards and requirements shall submit to the control authority a report containing the information described in paragraphs (b)(4) through (6) of 40 CFR 403.12. For industrial users subject to equivalent mass or concentration limits established by the control authority, this report shall contain a reasonable measure of the user's long-term production rate. Significant noncategorical users that are new sources or that become significant users after the pretreatment program is initiated may be required to submit this report dependent upon the type and quantity of pollutants produced. [Ord. G-96-9, passed 7-8-96; Ord. F-84-35, passed 6-25-84. 1982 Code § 53.088; 1983 Code § 5.53.088.]

13.20.380 Pretreatment facilities operations.

If pretreatment or control of waste flows is required, the facilities shall be maintained in good working order and operated as efficiently as possible by the owner or operator at his own cost and expense, subject to the requirements of these rules and regulations and all other applicable codes, ordinances, and laws. [Ord. F-84-35, passed 6-25-84. 1982 Code § 53.095; 1983 Code § 5.53.095.]

13.20.390 Enforcement system.

Industries found to be in violation of any pretreatment requirements will receive notice of such instances. Notification and appropriate action may be in the form of the following types based upon the Enforcement Response Plan (ERP) the control authority has developed:

(A) Notification of Violation. Whenever the control authority finds that an industrial user has violated or is violating this chapter, or a wastewater discharge permit or order issued hereunder, the control authority may serve upon said user notice of the violation. Upon receipt of this notice, a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the control authority.

Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation.

(B) Consent Orders. The control authority is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing agreement with the industrial user responsible for the noncompliance. Such orders will include specific actions to be taken by the user to correct the noncompliance within a time period also specified by the order.

(C) Show Cause Hearing. The control authority may order any industrial user which causes or contributes to violation of this chapter or wastewater discharge permit or order issued hereunder to show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least 10 days prior to the hearing. Such notice may be served on any principal executive, general partner or corporate officer. Whether or not a duly notified industrial user appears as notified, immediate enforcement action may be pursued.

(D) Compliance Orders. When the control authority finds that an industrial user has violated or continues to violate this chapter or a permit or order issued hereunder, it may issue an order to the user responsible for the discharge, directing that, following a specified time period, sewer service shall be disconnected unless adequate treatment facilities, devices, or other related appurtenances have been installed and are properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installment of pretreatment technology, additional self-monitoring, and management practices.

(E) Cease and Desist Orders. When the control authority finds that an industrial user has violated or continues to violate this chapter or any permit or order hereunder, the control authority may issue an order to cease and desist all such violations and direct those persons in noncompliance to:

(1) Comply forthwith;

(2) Take such appropriate remedial or preventative action as is needed to properly address continuing or threatened violation, including halting operations and terminating the discharge.

(F) Administrative Fines. Notwithstanding any other section of this chapter, any user who is found to have violated any provision of this chapter, or permits or orders issued hereunder, may at the discretion of the Utility Board be fined an amount not to exceed \$2,500 per violation. Each day on which noncompliance occurs or continues to occur shall be deemed a separate and distinct violation. Such assessments may be added to the user's next scheduled sewer service charge and the control authority shall have such collection remedies as are available to collect other service charges. Unpaid charges, fines, and penalties shall continue to be a lien against the user's property. Industrial users desiring to dispute such fines must file a request for the control authority to reconsider the fine within 10 days of being notified of the fine.

When the control authority believes a request has merit, it shall convene a hearing on the matter within 15 days of receiving the request from the industrial user.

(G) Emergency Suspensions.

(1) The control authority may suspend the industrial user's wastewater service and/or his permit whenever necessary in order to stop an actual or threatened discharge presenting or causing an imminent or substantial endangerment to the health or welfare of persons, the POTW, or the environment.

(2) Any user notified of a suspension of the wastewater service and/or the discharge permit shall immediately stop or eliminate its contribution. In the event of the user's failure to immediately comply voluntarily with the suspension order, the control authority shall take such steps as deemed necessary, including immediate severance of the sewer connection to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The control authority shall allow the user to recommence its discharge when the endangerment has passed.

(3) An industrial user which is responsible, in whole or in part, for imminent endangerment shall submit a detailed written statement to the control authority within five days of such emergency, describing the cause of the harmful contribution and the measures taken to prevent any further occurrence.

(H) Termination of Permit. Significant industrial users proposing to discharge into the POTW must first obtain a wastewater discharge permit from the control authority. Any user who violates any of the following conditions of this chapter, or a wastewater discharge permit, or order, or any applicable State or Federal law, is subject to permit termination:

(1) Violation of permit conditions;

(2) Failure to accurately report the wastewater constituents and characteristics of its discharge;

(3) Failure to report significant changes in operations or wastewater constituents and characteristics;

(4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling. Noncompliant industrial users will be notified of the proposed termination of their wastewater discharge permit and be offered an opportunity to show cause why the proposed action should not be taken.

(I) Water Supply Severance. Whenever an industrial user has violated or continues to violate the provisions of this chapter, or an order or permit issued hereunder, water service to the industrial user may

be severed and will only recommence at the user's expense, after ability to comply has been satisfactorily demonstrated.

(J) Judicial Remedies. If any person violates any of the provisions of this chapter or discharges sewage, industrial wastes, or other wastes into the wastewater disposal system contrary to the provisions of this chapter or any order or permit issued hereunder, the control authority through legal council may commence an action for appropriate legal and/or equitable relief.

(K) Injunctive Relief. Whenever an industrial user has violated or continues to violate the provisions of this chapter or a permit or order issued hereunder, the control authority through counsel may petition the court for the issuance of a preliminary or permanent injunction or both (as may be appropriate) which restrains or compels the activities on the part of the industrial user. The control authority shall have such remedies to collect these fees as it has to collect other sewer service charges.

(L) Civil Penalties.

(1) Any user who has violated or continues to violate this chapter, or any order or permit issued hereunder, shall be liable to the control authority who has legal authority to seek or assess civil penalties in the amount of \$2,500 a day for each violation, plus actual damages incurred by the POTW. The penalties shall be assessed per violation per day for as long as the violation continues. In addition to the above-described penalties and damages, the control authority may recover reasonable attorneys' fees, court costs, and other expenses associated with the enforcement activities, including, but not limited to, sampling and monitoring expenses, as allowed by law.

(2) The control authority shall petition the court to impose, assess and recover such sums. In determining the amount of liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained by the violation, corrective actions taken by the industrial user, the compliance history of the user, and any other factors as justice requires.

(M) Criminal Prosecution. Any industrial user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter, or wastewater discharge permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter shall be referred to the Vanderburgh County Prosecutor for possible criminal prosecution.

(N) Publication. In order to comply with 40 CFR 403.8(f)(2)(vii), the control authority shall publish annually, in the largest daily newspaper in the municipality where the POTW is located, a list of industrial users which were in significant noncompliance (SNC) with applicable pretreatment standards and requirements during the previous 12 months. SNC will be any of the following:

(1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of all the measurements for the same pollutant parameter taken during a six-month period exceed (by any magnitude) a numeric pretreatment standard;

(2) A Technical Review Criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of a numeric pretreatment standard multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

(3) Any other violation of a pretreatment standard that the control authority determines has caused, alone or in combination with other discharges, interference, pass through or endangerment;

(4) Any discharge that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority;

(5) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone;

(6) Failure to provide, within 30 days after the due date, any reports required by this chapter;

(7) Failure to accurately report noncompliance;

(8) Any other violation, which may include a violation of Best Management Practices, which the control authority determines will adversely affect the operation of the pretreatment program.

[Ord. G-2012-12, passed 7-25-12; Ord. G-96-9, passed 7-8-96; Ord. F-84-35, passed 6-25-84. 1982 Code § 53.100; 1983 Code § 5.53.100.]

13.20.400 Right of appeal.

Any discharger or any interested party shall have the right to request in writing an interpretation or ruling by the City on any matter covered by this chapter and shall be entitled to a written reply within 30 days of the submission of the request. In the event that such inquiry is by a discharger and deals with matters of performance or compliance with this chapter or deals with a wastewater discharge permit issued pursuant hereto for which enforcement activity relating to an alleged violation is the subject, receipt of a discharger's request shall stay all enforcement proceedings pending receipt of the aforesaid written reply. [Ord. F-84-39, passed 6-25-84. 1982 Code § 53.101; 1983 Code § 5.53.101.]

13.20.410 Revocation of permit.

If the governing State or Federal regulations change, the City may revoke the permit granted. Additionally, any user who violates the following conditions of his permit or of this chapter, or of applicable State and Federal regulations, is subject to having his permit revoked. Violations subjecting a user to possible revocation of his permit include, but are not limited to, the following:

- (A) Failure of a user to accurately report the wastewater constituents and characteristics of its discharge.
- (B) Failure of the user to report significant changes in operations or wastewater constituents and characteristics.
- (C) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring.
- (D) Violation of conditions of the permit.
- (E) Falsifying reports or tampering with samples. [Ord. F-84-35, passed 6-25-84. 1982 Code § 53.102; 1983 Code § 5.53.102.]

13.20.420 Operating upsets.

Any discharger which experiences an upset in operations which places the discharger in a temporary state of noncompliance with this chapter or a wastewater discharge permit issued pursuant hereto shall inform the City wastewater treatment plant thereof within 24 hours of first awareness of the upset. Where this information is given orally, a written followup report thereof shall be filed by the discharger with the City within 10 days. The report shall specify the following:

- (A) Description of the upset, the probable cause, and the upset's impact on a discharger's compliance status.
- (B) Duration of noncompliance, including exact dates and times of noncompliance, and, if the noncompliance continues, the time by which compliance is reasonably expected to occur.
- (C) All steps taken or to be taken to reduce, eliminate, and prevent recurrence of an upset or other conditions of noncompliance. [Ord. F-84-35, passed 6-25-84. 1982 Code § 53.103; 1983 Code § 5.53.103.]

13.20.430 Severability.

If any provision, paragraph, word or section of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words and sections shall continue to be in effect. [Ord. G-96-9, passed 7-8-96. 1983 Code § 5.53.997.]

13.20.440 Penalty.

Any discharger who is found to have violated an order of the City or who has failed to comply with any provision of this chapter, and the regulations or rules of the City, or orders of any court of competent jurisdiction, or permits issued hereunder, shall be subject to the penalties set forth in EMC 1.05.180. [1982 Code § 53.999; 1983 Code § 5.53.999.]